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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/600,487

06/20/2003

Michael D. Kotzin

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7590

10/03/2005

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EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,487

Applicant(s)

KOTZIN, MICHAEL D.

Examiner

Edwin C. Holloway, III

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

EXAMINER'S RESPONSE

1. In response to the application filed 6-20-03 and the abstract filed 12-29-03, the application has been examined. The examiner has considered the presentation of claims in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 23, "when all other of the plurality of predetermined conditions are present" is unclear because only one condition is recited in claim 21.

Claim Rejections - 35 USC § 102 & 103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Baumann (US 6104922).

Baumann discloses a method and apparatus including a wireless communication device 30 with a plurality of biometric devices (330, 360, 375), collecting a biometric sample (510/610) and enabling a feature (560/670) when a biometric sample corresponds (540/650) to a known sample. See figs. 3 and 5-6 and col. 6 line 38 - col. 7 line 42 and col. 8 lines 10-65.

7. Claims 1-4, 6, 8-13, 15-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) as applied above in combination with Matchett (US 5229764).

Baumann discloses a wireless communication device with a plurality of biometric sensors, but does not disclose details of selecting one of the biometric sensors.

Matchett discloses an analogous art biometric authentication system and method that may individually select one of a plurality biometric authentication devices. Selection may be made by time where one devices may be tested three times a minute while another is tested ten times a minute in col. 7 lines 2-5 or selection may rely on a hierarchy of test importance where more accurate tests are given greater weight than less accurate tests in col. 7 lines 19-28. Allowing function of a cellular telephone in response to proper biometric ID is discloses in col. 5 line 7 to col. 6 line 28.

Initially, if it is not clear that granting access or commencing communication in Baumann enables/authorizes a function/feature of the wireless communication device in claims 1, 12 and 17, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included this limitation in Baumann in view of Matchett disclosing enabling and disabling function of a cellular telephone in response to biometric comparison at the phone instead of or in addition to comparison at a remote node or base station. Further, it would have been obvious to have included selecting one of the biometric sensors in response to a condition in claims 1, 12, 18 and 21 as discloses in col. 7 of Matchett for increased reliability. Regarding claims 2 and 16,

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Baumann discloses controlling access to a communication system and Matchett discloses controlling power to operate features of a phone. Regarding claims 3 and 13, Baumann includes fingerprint, retinal, vocoder, palm, facial and "other types of biometric sensors" in col. 7 lines 1-16. Regarding claim 4, Matchett includes an interval in col. 7 lines 2-5. Regarding claim 6, Matchett discloses selecting more reliable or accurate sensor in col. 7 lines 19-28. Regarding claims 8 and 15, col. 7 lines 2-5 of Matchett describes different number limits for different sensors. Regarding claims 9-10 and 22, col. 7 lines 19-28 of Matchett describes hierarchy bases on accuracy or reliability. Regarding claims 11 and 19, col. 5 lines 16-47 of Matchett discloses a keypad entry of a security code or password to bypass or not select biometric input(s). Regarding claim 23, the hierarchy weighing in col. 7 lines 19-28 of Matchett represents an uncertainty parameter.

8. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) and Matchett (US 5229764) as applied above and further in view of Prokoski (US 6850147).

Regarding claims 7 and 14, Prokoski discloses a security system that allows a user to select one or more biometric methods that provides the users desired level of accuracy,

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reliability, convenience, security and cost effectiveness. See at least the abstract and cols. 1-5.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above user selection of biometric methods in as disclosed by Prokoski to provide the users desired level of accuracy, reliability, convenience, security and cost effectiveness.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) and Matchett (US 5229764) as applied above and further in view Maes (US 6016476).

Regarding claim 20, Maes discloses an analogous art security system and method with biometric sensor 40. Alternatively input may be provided by PIN or password input in conjunction with a smartcard or universal card 26. See at least cols. 5-7.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above the smart card or Maes as an obvious alternative method of input for user verification suggested by Matchett disclosing bypassing biometric input with security code input.

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10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) and Matchett (US 5229764) as applied above and further in view of Brunelli (US 5412738), Osten (US 5719950) or Colmenarez (US 6498970).

Regarding claim 5, Brunelli, Osten and Colmenarez discloses recognition systems with plural sensors and detection of ambient conditions such as temperature or light in order to select or switch one or more sensors for improved reliability and accuracy.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above detection of ambient conditions such as temperature or light as disclosed in Brunelli, Osten or Colmenarez in order to select or switch one or more sensors for improved reliability and accuracy.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Feix (US 4449189), Piosenka (US 4993068), Washington (US 5686765), Bergholz (US 5812067), Klinger (US 20040128519) and Kohinata (US 6788928) disclose security systems with biometric input.

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CONTACT INFORMATION

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at ebc@uspto.gov. The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (571) 272-2600.

Prior to July 15, 2005, facsimile submissions may be sent via central fax number (703) 872-9306 to customer service for entry by technical support staff. Questions related to the operation of the facsimile system should be directed to the Electronic Business Center at (866) 217-9197. On July 15, 2005, the Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and 571-273-8300 will be the only facsimile number recognized for "centralized delivery".


CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number. Inquiries concerning only hours and

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location of the Customer Window may be directed to OIPE Customer Service at (703) 308-1202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068.

EH
9/30/05


EDWIN C. HOLLOWAY, III
PRIMARY EXAMINER
ART UNIT 2635